

July 23, 2025

VIA ECF

David J. Smith
Clerk of Court
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Re: *Dershowitz v. Cable News Network, Inc.*, Case No. 23-11270

Dear Mr. Smith:

We represent Defendant-Appellee Cable News Network, Inc. We write pursuant to Federal Rule of Appellate Procedure 28(j) to advise the Court of a supplemental authority.

This month, a panel of the Eleventh Circuit including Judge Lagoa decided ***Reed v. Chamblee*, No. 24-10058, 2025 WL 1874638 (11th Cir. July 8, 2025)**. The court affirmed the dismissal of the complaint with prejudice based on the plaintiff's failure to adequately plead actual malice. *Id.* at *3. In doing so, the court reaffirmed the Eleventh Circuit's strong commitment to the requirement that a defamation plaintiff satisfy the demanding standard of actual malice, in three ways relevant to this appeal.

First, the court reaffirmed that "publishers are permitted to rely on other published reports from reputable sources," and actual malice "is absent when the publisher's claims are reasonably supported by numerous prior reports." *Id.* (quotation marks omitted). Here, countless major news organizations published similar reports interpreting Dershowitz's Response the same way as CNN's commentators, several of whom knew their interpretation was widely shared. CNN's Br. at 9-11, 37 & n.14; *see also* CNN's Aug. 2, 2024 Ltr. As in *Reed*, the existence of numerous other publications supporting the allegedly defamatory statements precludes actual malice.

Second, the court held that the plaintiff's allegations of the defendants' "hostility and animosity towards him and repeated attacks against him" are insufficient to plead actual malice. *Reed*, 2025 WL 1874638, at *3. One of Dershowitz's arguments is that CNN's commentators "piled on with all manner of invective," such as calling Dershowitz "bonkers." Dershowitz's Opening Br. at 2. This Court should reject such an argument here, as the court did in *Reed*. 2025 WL 1874638, at *3 ("[I]ll-will, improper motive or personal animosity plays no role in determining whether a defendant acted with actual malice.").

Finally, the court held that a “fail[ure] to fully investigate” the statements does not show actual malice. *Id.* Similarly, Dershowitz’s claim that CNN’s commentators were “lazy” or failed to understand the Response (Dershowitz’s Opening Br. at 35-36)—which Dershowitz did not establish in any event—does not meet the actual-malice standard. CNN’s Br. at 28-29.

Respectfully submitted,

/s/ Katherine M. Bolger

Katherine M. Bolger

cc: All counsel of record (via ECF)